

STATE OF SOUTH CAROLINA

(Caption of Case)

Application of Carolina Water Service, Inc.  
for Approval of a Contract with Mr. Alan  
Spence, Ms. Kathryn Spence, and Spence's  
Island Homeowners Association to Serve  
Spence's Island Subdivision in Lexington  
County

BEFORE THE  
PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA

COVER SHEET

DOCKET  
NUMBER: 2008 - 412 - WS

(Please type or print)

Submitted by: Andrew J. MacLeod, Esquire

SC Bar Number: 73053

Address: Post Office Box 8416

Telephone: 252-3300

Columbia, SC 29202

Fax: 771-2410

Other:

Email: amacleod@willoughbyhoefer.com

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for use by the Public Service Commission of South Carolina for the purpose of docketing and must be filled out completely.

DOCKETING INFORMATION (Check all that apply)

☐ Emergency Relief demanded in petition

☐ Request for item to be placed on Commission's Agenda expeditiously

☒ Other:

INDUSTRY (Check one)

- ☐ Electric  
☐ Electric/Gas  
☐ Electric/Telecommunications  
☐ Electric/Water  
☐ Electric/Water/Telecom.  
☐ Electric/Water/Sewer  
☐ Gas  
☐ Railroad  
☐ Sewer  
☐ Telecommunications  
☐ Transportation  
☐ Water  
☒ Water/Sewer  
☐ Administrative Matter  
☐ Other:

NATURE OF ACTION (Check all that apply)

- ☐ Affidavit  
☐ Agreement  
☐ Answer  
☐ Appellate Review  
☒ Application  
☐ Brief  
☐ Certificate  
☐ Comments  
☐ Complaint  
☐ Consent Order  
☐ Discovery  
☐ Exhibit  
☐ Expedited Consideration  
☐ Interconnection Agreement  
☐ Interconnection Amendment  
☐ Late-Filed Exhibit  
☐ Letter  
☐ Memorandum  
☐ Motion  
☐ Objection  
☐ Petition  
☐ Petition for Reconsideration  
☐ Petition for Rulemaking  
☐ Petition for Rule to Show Cause  
☐ Petition to Intervene  
☐ Petition to Intervene Out of Time  
☐ Prefiled Testimony  
☐ Promotion  
☐ Proposed Order  
☐ Protest  
☐ Publisher's Affidavit  
☐ Report  
☐ Request  
☐ Request for Certification  
☐ Request for Investigation  
☐ Resale Agreement  
☐ Resale Amendment  
☐ Reservation Letter  
☐ Response  
☐ Response to Discovery  
☐ Return to Petition  
☐ Stipulation  
☐ Subpoena  
☐ Tariff  
☐ Other:

Print Form

Reset Form

**WILLOUGHBY & HOEFER, P.A.**

ATTORNEYS & COUNSELORS AT LAW

930 RICHLAND STREET

P.O. BOX 8416

COLUMBIA, SOUTH CAROLINA 29202-8416

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AREA CODE 803  
TELEPHONE 252-3300  
TELECOPIER 256-8062

TRACEY C. GREEN  
SPECIAL COUNSEL

\*ALSO ADMITTED IN TX

November 3, 2008

**VIA HAND-DELIVERY**

The Honorable Charles L.A. Terreni  
Chief Clerk/Administrator  
**Public Service Commission of South Carolina**  
101 Executive Center Drive  
Columbia, South Carolina 29210

RECEIVED  
NOV 3 2008  
PUBLIC SERVICE  
COMMISSION

RE: Application of Carolina Water Service, Inc. for approval of a contract with Mr. Allan Spence, Ms. Kathryn Spence, and Spence's Island Homeowners Association to serve Spence's Island Subdivision in Lexington County

Dear Mr. Terreni:

Enclosed for filing are the original and ten (10) copies of the Application of Carolina Water Service, Inc. in the above-referenced matter. Also enclosed you will find the Applicant's proposed notice of filing. By copy of this letter, I am serving a copy of these documents upon the Executive Director of the Office of Regulatory Staff and enclose a Certificate of Service to that effect.

I would appreciate your acknowledging receipt of these documents and Certificate by date-stamping the extra copies that are enclosed and returning them to me via our courier. If you have any questions, or if you need any additional information, please do not hesitate to contact me.

Sincerely,

**WILLOUGHBY & HOEFER, P.A.**

  
Andrew J. MacLeod

AM/cf

Enclosures

cc: Honorable C. Dukes Scott

**BEFORE**  
**THE PUBLIC SERVICE COMMISSION OF**  
**SOUTH CAROLINA**

**DOCKET NO. 2008-\_\_\_\_-WS**

RECEIVED  
PUBLIC SERVICE  
COMMISSION  
JAN 13 2008

IN RE:

Application of Carolina Water Service,  
Inc. for approval of a contract with  
Allan and Kathryn Spence and Spence's  
Island Homeowners Association to serve  
property in Lexington, South Carolina

**APPLICATION**

Carolina Water Service, Inc. ("Applicant" or "Utility") hereby submits a contract between it and Mr. Allan Spence and Ms. Kathryn Spence ("Developer") and Spence's Island Homeowners Association ("Association") for consideration by this Honorable Commission under Vol. 26 S.C. Code Ann. Regs. RR. 103-541 and 103-743 (Supp. 2007). In support of this Application, Applicant would respectfully show as follows:

1. Applicant is a public utility currently authorized to operate water and wastewater systems under the jurisdiction of the Public Service Commission of South Carolina ("Commission") in Lexington County, as well as certain other counties in this state. Its corporate charter is presently on file with the Commission and an appropriate bond has been posted with same. A schedule of the current rates and charges for Applicant's water and wastewater service has previously been approved by the Commission in Docket No. 2004-357-W/S by way of Order No. 2007-135, dated March 1, 2007. Additionally, CWS has implemented

rates and charges under bond in accordance with Order No. 2007-230 dated April 5, 2007, issued in Docket No. 2006-92-W/S.<sup>1</sup>

2. The Applicant seeks approval of an agreement entered into between Applicant and Spence's Island dated October 13, 2008, ("Agreement"), a copy of which is attached hereto and incorporated herein by reference as Exhibit "A." Under Article IV, § 1 of the Agreement, Applicant will provide water and wastewater utility service to the referenced property pursuant to all of the terms, conditions, rates and charges set forth as are on file with this Commission and in effect from time to time.<sup>2</sup>

3. Pursuant to this agreement, Applicant proposes to serve a certain real estate parcel containing approximately nine and seventy-five one hundredths (9.75) acres located at the end of Spence Drive in Lexington, Lexington County, South Carolina ("Property"). Developer desires to develop and construct a residential development to be called "Spence's Island" ("Project") on the Property and, when completed, Applicant will serve approximately nine (9) single family residential homes. The Agreement provides, *inter alia*, that Developer will construct all of the necessary water distribution and wastewater collection facilities ("Facilities") required to serve the Property, interconnect the facilities with the Utility's existing water and wastewater systems, acquire all necessary easements and rights-of-way ("Easements") and convey such Facilities and Easements to Applicant. Performance of the Agreement is conditioned upon its approval by this Commission.

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<sup>1</sup> As the Commission is aware, the Commission denied Applicant's request for Rate Relief in Docket No. 2006-92-W/S by way of Order No. 2006-543 dated October 2, 2006. Applicant subsequently petitioned the Commission for reconsideration or rehearing of that Order. On November 27, 2006, the Commission issued a directive denying that petition and approving Applicant's request to place rates into effect under bond. On April 5, 2007, the Commission issued its order approving a bond which permitted CWS to place rates into effect as allowed by S.C. Code Ann. Section 58-5-240(D) (Supp. 2005). The Commission issued its Order No. 2007-140 on November 19, 2007, denying CWS's petition for reconsideration or rehearing. CWS filed a notice of appeal from the Commission's orders in Docket No. 2006-92-WS. On September 3, 2008, the Supreme Court of South Carolina, pursuant to a Consent Motion filed by CWS and the South Carolina Office of Regulatory Staff, held the appeal in abeyance and remanded the case for the Commission to reconsider its determination.

<sup>2</sup> Thus, upon any subsequent revisions to rates resulting from the appeal taken from Commission orders in Docket No. 2006-92-W/S, the rates to be charged in the proposed development would change.

4. The Property is within Applicant's Commission authorized Service Area in Lexington County. Accordingly, no other public utility is authorized to serve the proposed development.

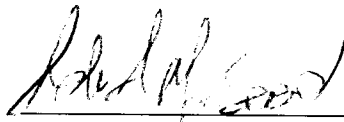
5. Pursuant to Article II, § 15 of the Agreement, Developer has agreed to pay to the Utility water and wastewater service connection and plant impact fees based upon an estimated nine (9) single family equivalent connections to serve the Property. Pursuant to Article II, § 14 of the Agreement, Applicant has agreed to reserve adequate capacity for up to nine (9) single family equivalents for water and wastewater service located within the Property. Applicant submits that this provision is warranted and in the public interest as the terms of this contract allow the Utility to adequately engage in planning for operations.

6. Applicant submits that the public convenience and necessity will be served by the approval of this Agreement. Applicant further submits that no hearing in this matter is required. See S.C. Code Ann. § 58-5-240(G) (Supp.2007).

7. All correspondence and communications regarding this matter should be sent to the undersigned.

WHEREFORE, having fully set forth its Application, Applicant prays that the Agreement be approved, that a hearing on the within matter be waived or review of the within application be expedited, and that Applicant be granted such other and further relief as the Commission may deem just and proper.

[SIGNATURE PAGE FOLLOWS]



John M.S. Hoefer

Andrew J. MacLeod

**WILLOUGHBY & HOEFER, PA**

Post Office Box 8416

Columbia, South Carolina 29202-8416

803-252-3300

Attorneys for Applicant

Columbia, South Carolina  
This 3<sup>rd</sup> day of November, 2008

**PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA**

**DOCKETING DEPARTMENT**

**NOTICE OF FILING**

**DOCKET NO. 2008-\_\_\_\_-WS**

Application of Carolina Water Service, Inc. for Approval of a Contract with Mr. Allan Spence, Ms. Kathryn Spence, and Spence's Island Homeowners Association to Serve Property in Lexington, South Carolina.

Carolina Water Service, Inc. ("Applicant" or "Utility") has filed an application with the Public Service Commission of South Carolina ("Commission") pursuant to 26 S.C. Code Ann. Regs. RR. 103-541 and 103-743 for approval of a contract between it and Mr. Allen Spence, Mrs. Kathryn Spence ("Developer"), and Spence's Island Homeowners Association ("Association") to serve a certain real estate parcel containing approximately nine and seventy-five one hundredths (9.75) acres located at the end of Spence Drive in Lexington, Lexington County, South Carolina ("Property").

The Applicant is a public utility currently authorized to operate water and wastewater systems under the jurisdiction of the Commission in Lexington County, as well as certain other counties in the state. The Applicant and Developer have entered into an agreement dated October 13, 2008 for water and wastewater utility service provided by the Applicant.

According to the Application, the Utility proposes to serve a certain real estate parcel containing approximately nine and seventy-five one hundredths (9.75) acres located at the end of Spence Drive in Lexington, Lexington County, South Carolina ("Property"). Developer desires to develop and construct approximately nine (9) single family residential homes on the Property. The Agreement provides that Developer will construct all of the necessary water distribution facilities and wastewater collection facilities ("Facilities") required to serve the Property, interconnect the Facilities with the Utility's existing water and wastewater systems, acquire all necessary easements and rights-of-way ("Easements") and convey such Facilities and Easements to the Applicant.

The Application reveals that the Property is within the Applicant's Commission authorized service area in Lexington County.

A copy of the Company's Application can be obtained from the Commission at the following address: Public Service Commission of South Carolina, Docketing Department, 101 Executive Center Drive, Columbia, South Carolina 29210. Additionally, the Application is available on the Commission's website at [www.psc.sc.gov](http://www.psc.sc.gov) and is available from Andrew J. MacLeod, Esquire, Willoughby & Hoefer, P.A., Post Office Box 8416, Columbia, South Carolina 29202-8416.

A public hearing, if scheduled, will be held in the Commission's Hearing Room, Synergy Business Park, Saluda Building, 101 Executive Center Drive, Columbia, South Carolina, for the purpose of receiving testimony and other evidence from all interested parties regarding this Application. The time and date of this hearing will be furnished to all interested parties at a later date.

Any person who wishes to participate in this matter, as a party of record with the right of cross-examination should file a Petition to Intervene in accordance with the Commission's Rules of Practice and Procedure on or before \_\_\_\_\_, 2008, and indicate the amount of time required for his presentation. Please include an email address for receipt of future Commission correspondence in the Petition to Intervene. ***Please refer to Docket No. 2008-\_\_\_\_-WS.***

Any person who wishes to testify and present evidence at the hearing, if scheduled, should notify the Docketing Department, in writing, at the address below, the Office of Regulatory Staff, at Post Office Box 11263, Columbia, South Carolina 29211 and Andrew J. MacLeod, Esquire, at the above address, on or before \_\_\_\_\_, 2008, and indicate the amount of time required for his presentation. ***Please refer to Docket No. 2008-\_\_\_\_-WS.***

Docket No. 2008-\_\_\_\_-WS  
Carolina Water Service, Inc.  
Notice of Filing – Page 2

Any person who wishes to be notified of the hearing, but does not wish to present testimony or be a party of record, may do so by notifying the Docketing Department, in writing, at the address below on or before \_\_\_\_\_, 2008.  
***Please refer to Docket No. 2008-\_\_\_\_-WS.***

**PLEASE TAKE NOTICE:** Any person who wishes to have his or her comments considered as part of the official record of this proceeding **MUST** present such comments, in person, to the Commission during the hearing.

Persons seeking information about the Commission's Procedures should contact the Commission at (803) 896-5100.

Public Service Commission of South Carolina  
Attn: Docketing Department  
Post Office Drawer 11649  
Columbia, South Carolina 29211

\_\_\_\_/\_\_\_\_/08  
cba



**BEFORE**  
**THE PUBLIC SERVICE COMMISSION OF**  
**SOUTH CAROLINA**

**DOCKET NO. 2008-\_\_\_\_\_-WS**


IN RE:

Application of Carolina Water Service,  
Inc. for Approval of a Contract with  
Mr. Alan Spence, Ms. Kathryn Spence,  
and the Spence's Island Homeowners  
Association to Serve Spence's Island  
Subdivision in Lexington County

**CERTIFICATE OF SERVICE**

This is to certify that I have caused to be served this day one (1) copy of the **Application** by placing same in the care and custody of the United States Postal Service with first class postage affixed thereto and addressed as follows:

The Honorable C. Dukes Scott  
**Office of Regulatory Staff**  
Post Office Box 11263  
Columbia, South Carolina 29211

  
Clark Fancher

Columbia, South Carolina  
This 3<sup>rd</sup> day of November, 2008.

RECEIVED  
2008 NOV - 3 PM 3:34  
SC PUBLIC SERVICE  
COMMISSION

AGREEMENT FOR WATER AND SEWER SERVICE  
SPENCE'S ISLAND SUBDIVISION  
LEXINGTON COUNTY, SC

This Agreement is entered into this 13<sup>th</sup> day of October, 2008 by and between Mr. Allan Spence and Ms. Kathryn Spence (hereinafter collectively referred to as "Subdivider/Owner"), Spence's Island Homeowners Association (hereinafter referred to as "Indemnitor"), and Carolina Water Service, Inc., a Delaware corporation authorized to do business in South Carolina (hereinafter referred to as "Utility").

WITNESSETH

WHEREAS, Subdivider/Owner owns, in joint tenancy, certain real estate parcels containing approximately 9.75 acres (Tax Parcel No's. 002500-03-001 and 002500-03-002), which are being developed and are located at the end of Spence Drive, Lexington, South Carolina, hereinafter referred to as the "Property" (see "Exhibit 1"); and,

WHEREAS, Subdivider/Owner desires to develop the Property into a residential development to be called "Spence's Island" which will contain approximately nine (9) single family residential homes when completed; and,

WHEREAS, Utility is a public utility engaged in the business of furnishing water and sewer service to the public in its designated Watergate Service Territory located in Lexington County and Property is located within the service territory. The Utility desires to have constructed and installed, and the Subdivider/Owner desires to construct and install, the water distribution and wastewater collection facilities to serve the Property subject to the terms and conditions of this Agreement; and,

WHEREAS, Subdivider/Owner desires Utility to provide water and wastewater utility service within the Property and Utility desires to provide water and wastewater utility service according to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants as hereinafter set forth, the parties hereto agree as follows:

ARTICLE I

Representations and Warranties of Subdivider/Owner

Subdivider/Owner represents and warrants that:

1. Subdivider/Owner owns or is duly authorized to act on behalf of the owner(s) of the Property; and,
2. Subdivider/Owner will cooperate fully with the Utility in any and all applications or petitions to public authorities deemed necessary or desirable by Utility in connection with

- the construction and installation of the Facilities contemplated by this Agreement; and,
3. Subdivider/Owner will convey to the Utility or otherwise vest in the Utility such right, title and interest in and to such real estate as may be reasonably necessary to permit the Utility to carry out the terms and conditions of this Agreement; and,
  4. Subdivider/Owner will convey to Utility or provide by recorded subdivision plats such easements or rights of way as the Utility may reasonably require for the Utility's performance of its obligations under this Agreement. Any such plats, conveyances or licenses will be in form reasonably satisfactory to Utility's legal counsel.

## ARTICLE II

### Obligations and Construction of Facilities by Subdivider/Owner

#### 1. Facilities

- Subdivider/Owner shall construct and install all necessary water distribution and wastewater collection facilities to serve the Property, including but not limited to mains, valves, fire hydrants, service laterals, meter boxes, meters, manholes, odor control devices, lift station(s) with emergency generator(s), and other facilities as are reasonably required to provide adequate water and wastewater service (hereinafter referred to as the "Facilities"). Water distribution mains will have a minimum diameter of six (6) inches, except where otherwise approved by Utility. Subdivider/Owner shall install and connect to an existing (6) inch water main at a point to be determined by the Utility. Wastewater collection mains will have a minimum diameter of eight (8) inches, except where otherwise approved by Utility. Subdivider/Owner shall install and connect to a gravity sewer manhole on the existing gravity sewer collection system at a point approved by the Utility.
2. All materials used by the Subdivider/Owner for said Facilities shall be new, first-class, and suitable for the uses made thereof. Subdivider/Owner guarantees all construction, materials, workmanship, and the trouble-free operation of the Facilities (or any portion of the Facilities) for one year after the Facilities (or such portion of the Facilities) are placed in service.
  3. All Facilities constructed and installed by Subdivider/Owner pursuant to this Article II shall be constructed and installed without cost or expense to Utility.
  4. All plans, specifications and construction of the Facilities shall be in accordance with applicable standards, requirements, rules and regulations of all governmental bodies and regulatory agencies which may have jurisdiction thereover, and shall have received the written approval of Utility before construction is begun, which approval shall not be unreasonably withheld or delayed.

5. Subdivider/Owner represents to Utility that its entity, Spence's Island Homeowners Association, will contract for construction of utility facilities for the Spence's Island Subdivision. Therefore, Indemnitor shall save and hold Utility harmless from and against all suits or claims that may be based upon any injury to any person or property that may occur in the course of the performance of the construction of the Facilities by Subdivider/Owner or by anyone acting on Subdivider/Owner's behalf, or under Subdivider/Owner's supervision and control, including but not limited to claims made by employees of Subdivider/Owner, and Subdivider/Owner shall, at its own cost and expense, pay all costs and other expenses arising therefrom, or incurred in connection therewith, including reasonable attorneys' fees. Also, Subdivider/Owner shall secure a general liability policy in the amount of One Million and no/100 (\$1,000,000.00) Dollars for premises and operations liability with a general aggregate of Three Million and no/100 (\$3,000,000.00) Dollars with a Four Million and no/100 (\$4,000,000.00) Dollar umbrella naming Utility as an additional insured to provide coverage for the risks set forth in this paragraph. A certificate of insurance evidencing coverage shall be provided to the Utility upon execution of this document.
6. Subdivider/Owner shall obtain, with cooperation from Utility, all requisite permits and zoning and other approvals and all else required to construct the Facilities, without cost or expense to Utility.
7. Upon written acceptance of the Facilities by the Utility and interconnection with the Utility's existing water and wastewater systems, all of the Facilities installed by Subdivider/Owner pursuant to this Agreement shall become the property of Utility as installed, without cost or expense to Utility, with the exception of the service lines for which each residential unit shall retain ownership and maintenance responsibility. Subdivider/Owner shall execute all conveyances, licenses and other documents reasonably requested by Utility as necessary or desirable in its opinion to ensure its ownership of, ready access to, and operation and maintenance of the Facilities. Subdivider/Owner shall furnish Utility with lien waivers in a form reasonably satisfactory to Utility's legal counsel from Subdivider/Owner and from all suppliers, subcontractors and all other who furnish labor, equipment, materials, rentals, or who perform any services in connection with Facilities construction herein. Subdivider/Owner agrees to provide to Utility documentary evidence, in form satisfactory to Utility, sufficient to establish the original cost of the Facilities. Utility shall have, at all times, all right, title and interest in and to the Facilities.
8. Subdivider/Owner shall not have the right to connect individual lot service connections to the Facilities until such time as the Facilities have been formally accepted by the Utility,

written approvals have been received from all governmental bodies and regulatory agencies which may have jurisdiction thereover, and all applicable connection fees have been paid.

9. All connections must be inspected by the Utility prior to backfilling and covering of any pipes. Written notice to the Utility requesting an inspection of a connection shall be made at least forty-eight (48) hours in advance of the inspection, excluding weekends and official Utility holidays.
10. Should the Subdivider/Owner fail to comply with the foregoing inspection provisions, Utility may refuse service to a connection until such time as the appropriate inspections have been completed.
11. Subdivider/Owner shall, prior to the transfer to Utility of the Facilities, grant permanent, assignable easements satisfactory to Utility, without cost or expense to Utility, authorizing Utility to own, operate and maintain the Facilities throughout the Property and providing reasonably adequate rights of access and working space for such purposes.
12. Subdivider/Owner shall, prior to the transfer to Utility of the Facilities, provide to Utility as-built drawings, and all other information (by both hard copy and electronic copy), reasonably required to operate, maintain, and repair the Facilities.
13. Subdivider/Owner shall submit to Utility upon execution of this Agreement a Plan Review Fee of one thousand dollars (\$1,000) for each phase of the development. Subdivider/Owner shall, prior to the final acceptance of each development phase, or portions thereof, submit to Utility a five hundred (\$500) Inspection Fee. Should the Facilities require additional inspection(s) due to improper installation, defective or unapproved materials, the Subdivider/Owner shall pay five hundred dollars (\$500) for each additional inspection required.
14. Upon Subdivider/Owner's satisfaction of its obligations under this Agreement, Utility agrees to reserve adequate utility capacity for up to nine (9) water and wastewater connections located within the Property.
15. Subdivider/Owner shall pay and deliver to Utility the sum of money which is the non-recurring service connection and plant impact fees ("Tap Fees") provided for under Utility's rate schedule, as may be approved by the Public Service Commission of South Carolina and in effect from time to time, multiplied by the Single Family Equivalent ("SFE") rating set forth therein. For the project which is the subject of this Agreement, that sum shall be \$12,600.00 which is based upon an estimated nine (9) SFEs and the Utility's current rate schedule. This payment shall be made within ten (10) days of the execution of this Agreement. Should it be determined that the project contemplated by this Agreement consists of a greater number of SFEs than is estimated hereinabove,

then and in that event Subdivider/Owner shall be required to pay an additional sum to Utility for each additional SFE using the calculation provided for hereinabove conditioned upon first receiving the approval from Utility for such increase in SFEs. In addition, Subdivider/Owner agrees that it will not represent to any third party that utility service is available from Utility for use within the proposed development except (1) upon Subdivider/Owner's payment of the Tap Fees as provided hereinabove, and (2) establishment of service and an account between said third party and Utility, including payment of all fees and charges authorized under the Utility's approved rate schedule excepting tap fees.

### ARTICLE III

#### Other

1. Subdivider/Owner will not, and will not permit by restricted land covenant, any owner of real estate within the Property to construct or maintain any private well or septic system within the Property.
2. Neither Subdivider/Owner nor any entity or individual affiliated with Subdivider/Owner has executed or will execute any agreement with any lot purchaser in the Property, or any other parties or made any representations to any such purchasers or other parties whereunder such purchaser or other parties have acquired any interest in Facilities to be installed under this Agreement.

### ARTICLE IV

#### Utility Services, Connection Fees, Rates and Charges

1. Prior to the commencement of utility service, lot owners within the Property are responsible for the payment to Utility of all applicable water and sewer fees, as well as the appropriate Joint Municipal Water and Sewer Commission water tap-on or service fees at the rate as in effect from time to time prior to the provision of utility service to any lot within the Property. Such fees, usage and all other incidental rates and charges shall be rendered by Utility in accordance with Utility's rates, rules and regulations and conditions of service on file with the South Carolina Public Service Commission (the "Commission") from time to time and then in effect. Capacity shall not be reserved for any lots for which the tap fee has not been paid.
2. Upon installation and acceptance of the Facilities and payment of all applicable connection fees, Utility agrees to supply all customers within the Property with adequate and customary water and wastewater service and to operate, maintain and repair all

Facilities as indicated herein, after acceptance by Utility and issuance of operational approvals by all regulatory authorities.

#### ARTICLE V

##### Commission Approval

1. Within thirty (30) days following the execution of this Agreement, Utility will file an application with the Commission requesting approval of this Agreement, if necessary. Subdivider/Owner agrees to cooperate with Utility in any proceeding resulting from such application and to reimburse Utility its reasonable attorney fees, costs and litigation expenses incurred for such filing, and in addition, in the event such application is litigated by the Office of Regulatory Staff or opposed by third parties. All terms and conditions contained herein are subject to Utility receiving said approvals from the Commission.

#### ARTICLE VI

##### General

1. Except as provided in this Agreement, neither party to this Agreement shall be liable to the other for failure, default or delay in performing any of its obligations hereunder, if such failure, default or delay is caused by strikes or other labor problems, by forces of nature, unavoidable accident, fire, acts of the public enemy, interference by civil authorities, acts or failure to act, decisions or orders or regulations of any governmental or military body or agency, office or commission, delays in receipt of materials, or any other cause, whether of similar or dissimilar nature, not within the control of the party affected and which, by the exercise of due diligence, such party is unable to prevent or overcome, except as otherwise provided for herein. Should any of the foregoing events occur, the parties hereto agree to proceed with diligence to do what is reasonable and necessary so that each party may perform its obligations under this Agreement.
2. The failure of either party hereto to enforce any of the provisions of this Agreement or the waiver thereof in any instance by either party shall not be construed as a general waiver or relinquishment on its part of any such provisions, but the same shall, nevertheless, be and remain in full force and effect.
3. The representations, warranties and agreements contained herein shall survive, and continue in effect. Subdivider/Owner agrees to indemnify Utility, its successors and assigns, and hold it and them harmless against any loss, damage, liability, expense or cost of Utility, accruing or resulting from any misrepresentation or breach of any representation, warranty or agreement on the part of Subdivider/Owner under this

Agreement or from any misrepresentation in or material omission from any certificate or other document furnished or to be furnished to Utility by Subdivider/Owner.

4. This Agreement sets forth the complete understanding between Subdivider/Owner and Utility, and any amendments hereto to be effective must be made in writing.
5. Notices, correspondence and invoicing required hereunder shall be given to Subdivider/Owner and to Utility at the following addresses, or at any other addresses designated in writing by either party subsequent to the date hereof:

If to Utility:

Carolina Water Service, Inc.  
2335 Sanders Road  
Northbrook, Illinois 60062  
Attn: Ms. Lisa Sparrow  
Chief Operating Officer

If to Subdivider/Owner:

Mr. Allan Spence and Ms. Kathryn Spence  
1600 Spence Drive  
Lexington, SC 29072

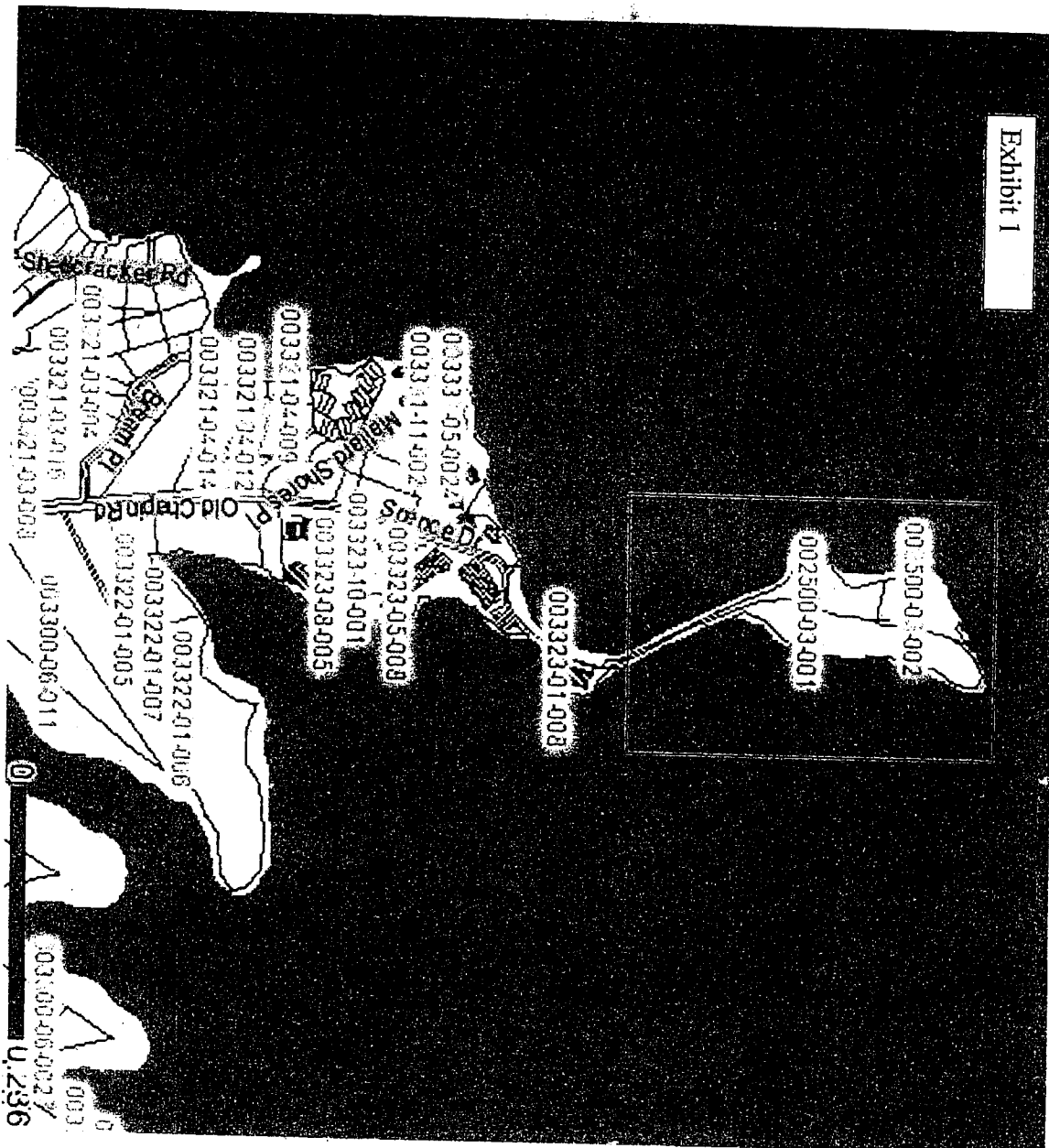
Delivery when made by registered or certified mail shall be deemed complete upon mailing. Delivery by overnight courier shall be deemed complete when delivered.

6. This Agreement may not be assigned by Subdivider/Owner without the written approval of Utility, which approval shall not be unreasonably withheld. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.
7. This Agreement shall be governed by the laws of the State of South Carolina.
8. This Agreement must be signed by Subdivider/Owner, Indemnitor and returned to Utility prior to October 27, 2008 in order to come into effect.

---

[Signatures Begin on the Following Page]





IN WITNESS WHEREOF, the parties hereto have set their seals the day and year above first written.

Carolina Water Service, Inc.

By: [Signature]  
Its: VLE President

Attest/Witness:

- 1) Bruce T. Haas  
Bruce T. Haas - Regional Director  
(Print name and title, seal if applicable)
- 2) Ronnie Stanis  
(Print name/ Signature) Ronnie Stanis

Mr. Allan Spence

By: [Signature]  
Its: \_\_\_\_\_

Attest/Witness:

- 1) Louise S. Amick  
(Print name and title, seal if applicable)
- 2) [Signature]  
(Print name/ Signature)

STATE OF South Carolina )

COUNTY OF Lexington )

Probate

PERSONALLY appeared before me the undersigned witness and made oath that S he saw the within named Allan J. Spence, as \_\_\_\_\_ of \_\_\_\_\_ sign, seal and as its act and deed, deliver the within written agreement for the uses and purposes therein mentioned, and that s/he with the other witness subscribed above, witnessed the execution thereof.

SWORN to before me this

8<sup>th</sup> day of October, 2000.

[Signature]  
Witness

Notary Public for South Carolina

My Commission Expires: 2/27/13

[seal]

[Signatures Continue on the Following Page]

Ms. Kathryn Spence

By: Kathryn C. Spence  
Its: \_\_\_\_\_

Attest/Witness:

1) Laurie S. Amick

(Print name and title, seal if applicable)

2) [Signature]

(Print name/ Signature)

STATE OF South Carolina )  
COUNTY OF Lexington )

Probate

PERSONALLY appeared before me the undersigned witness and made oath that s he saw the within named Kathryn C. Spence as \_\_\_\_\_ of \_\_\_\_\_ sign, seal and as its act and deed, deliver the within written agreement for the uses and purposes therein mentioned, and that s/he with the other witness subscribed above, witnessed the execution thereof.

SWORN to before me this

8<sup>th</sup> day of October, 2008

Laurie S. Amick  
Witness

Notary Public for South Carolina

My Commission Expires: 2/27/13

[seal]

Spence's Island Homeowners Association

By: Allen J. Spence  
Its: \_\_\_\_\_

Attest/Witness:

1) Laurise S. Annick

(Print name and title, seal if applicable)

2) [Signature]

(Print name/ Signature)

STATE OF South Carolina )

COUNTY OF Lexington )

Probate

PERSONALLY appeared before me the undersigned witness and made oath that she saw the within named Allen J. Spence, as \_\_\_\_\_ of Spence's Island Homeowners Assoc. sign, seal and as its act and deed, deliver the within written agreement for the uses and purposes therein mentioned, and that s/he with the other witness subscribed above, witnessed the execution thereof.

SWORN to before me this

8<sup>th</sup> day of October, 2000.

Laurise S. Annick  
Witness

Notary Public for South Carolina

My Commission Expires: 2/27/13